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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,940	07/31/2001	Raymond A. Kaligian II	2033.64694	4575
24978	7590	01/21/2004	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	
			DATE MAILED: 01/21/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,940

Applicant(s)

KALIGIAN ET AL.

Examiner

Christopher S. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species B in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the supply infrastructure is irrelevant to the searching of the invention. This is not found persuasive because the supply infrastructure is only one difference found between the two species. The two species also differ in the dispensing gun and the pressure tank. Feature differences between species are always pertinent in searching the claimed invention. Finally, applicant fails to assert or provide evidence that the two species are not patentably distinct.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 21 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim 21 recites a "first compressed gas inlet" and a "second pressurized gas inlet" which can only be found in non-elected Species A.

### ***Information Disclosure Statement***

3. The information disclosure statement filed September 28, 2001 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c)

most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "pinch valve" recited in claim 4 and the "halo fitting" recited in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "close" in claims 1 and 15 is a relative term which renders the claim indefinite. The term "close" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the

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art would not be reasonably apprised of the scope of the invention. The metes and bounds claim cannot be determined with respect to the relationship of the emitter to the axis.

The term "smooth" in claims 1 and 15 is a relative term which renders the claim indefinite. The term "smooth" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The metes and bounds of the claim cannot be determined with respect to the degree of smoothness or what constitutes smooth transition.

The term "smooth" in claims 7 and 16 is a relative term which renders the claim indefinite. The term "smooth" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The metes and bounds of the claim cannot be determined with respect to the degree of smoothness in the surface texture of the shank.

The term "minimizing" in claim 15 is a relative term which renders the claim indefinite. The term "minimizing" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The metes and bounds of the claim cannot be determined with respect to the degree of slurry collected or not collected by the injector.

Claim 11 fails to identify its parent claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 7, 9, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Simpson (5,133,500).

Simpson discloses an apparatus comprising: a main fluid passageway 140, 142; a control valve 55; an additive injector 128 having an emitter 138 and check 70; a static mixer 78.

9. Claims 1-5, 14, 15, 18, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smagac (5,623,995).

Smagac discloses an apparatus comprising: a main fluid passageway 118; a control valve 104; an additive injector 108 having an emitter (opening of 108 into passageway 118) and check 119; a static mixer 202.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson (5,133,500).

Simpson does not disclose a tapered head in the embodiment of figure 5. Simpson shows a tapered head in the embodiment of figure 4. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the spray head of figure 4 to the embodiment of figure 5 in the device of Simpson to provide the spray pattern of nozzle 134.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smagac (5,623,995) in view of Jefferson et al. (6,056,822).

Smagac discloses the limitations of the claimed invention with the exception of the purge input. Jefferson et al. discloses a purge line 406 to prevent line 402 from becoming blocked. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a purge input to the device of Smagac as taught by Jefferson et al. to prevent blocks (Jefferson et al., column 13, lines 48-50).

### ***Conclusion***


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berger and Harmon et al. disclose injectors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

Ck